

The Honorable John C. Coughenour

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

UNITED STATES OF AMERICA, *et al.*,

Plaintiffs, and

PUYALLUP TRIBE OF INDIANS, *et al.*,

Plaintiff-Intervenors,

v.

ELECTRON HYDRO, LLC,

Defendant.

Case No. 2:20-cv-01746-JCC

DECLARATION OF JOHN
BRODERICK IN SUPPORT OF
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT

NOTE ON MOTION CALENDAR:
February 18, 2022

I, John Broderick, declare as follows:

1. I am a trial attorney at the United States Department of Justice Environment and Natural Resources Division and counsel for the United States of America (“United States”) in this action. I am competent to testify and have personal knowledge of the matters stated herein.

2. On or about November 10, 2021, the United States conferred with counsel for Electron Hydro, LLC (“Electron”) and informed counsel that the United States intended to file

1 the proposed Amended Complaint, which would name Thom Fischer (“Mr. Fischer”) as an
2 additional defendant in this action.

3 3. On November 19, 2021, counsel for Electron informed the United States that
4 Electron would oppose its motion and requested that the parties first undertake discussions
5 regarding possible resolution of the case without extended litigation.

6 4. On December 13, 2021, the United States conferred with opposing counsel and
7 confirmed dates of January 18 and January 19, 2022, for the depositions of Corey Kleppe and
8 Chris Spens, respectively. The United States informed counsel that it would not file the
9 Amended Complaint as long as: (1) Electron would stipulate that its witnesses at these
10 depositions would answer questions regarding the additional claims and Mr. Fischer’s control
11 and direction of the events leading to the violations; and (2) any settlement discussions were
12 proceeding productively. Specifically, the United States requested a settlement meeting in
13 January, to be followed by a good faith offer showing meaningful movement within two weeks
14 of that meeting.

15 5. On January 7, 2022, the United States noticed depositions for January 18 and 19,
16 2022 of Corey Kleppe and Chris Spens. The United States has not noticed any deposition of Mr.
17 Fischer.

18 6. On January 10, 2022, the State of Washington filed criminal charges against
19 Electron and Mr. Fischer. *See* Dkt. # 48-1–4.

20 7. On January 24, 2022, counsel for Electron informed the United States that
21 Electron would seek a motion to stay discovery until resolution of the criminal proceedings.

22 8. On January 26, 2022, the United States informed counsel that Electron would file
23 the proposed Amended Complaint.

1
2 I declare, under penalty of perjury under the laws of the United States that the foregoing is
3 true and correct.

4 Executed this 1st day of February 2022, at Washington, D.C.

5
6 /s John Broderick

7 John Broderick (MA Bar # 688739)